



441 G St. N.W.  
Washington, DC 20548

B-330041

May 17, 2018

The Honorable John Thune  
Chairman  
The Honorable Bill Nelson  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Greg Walden  
Chairman  
The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

*Subject: Federal Communications Commission: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (the Commission) entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” (FCC 18-30). We received the rule on April 6, 2018. It was published in the *Federal Register* as a final rule on May 3, 2018. 83 Fed. Reg. 19,440. The rule is effective July 2, 2018.

The final rule makes a threshold legal determination that the deployment of small wireless facilities by non-federal entities is neither an “undertaking” within the meaning of the National Historic Preservation Act nor a “major federal action” under the National Environmental Protection Act. Although the rule clarifies that the deployment of small wireless facilities on non-tribal lands will not be subject to certain federal historic preservation and environmental review obligations, the rule leaves undisturbed its existing requirement that the construction and deployment of larger wireless facilities, including those deployments that are regulated in accordance with the Commission’s antenna structure registration system or subject to site-by-site licensing, must continue to comply with those environmental and historic preservation review obligations. The rule also amends the process for tribal participation in historic preservation reviews for large wireless facilities where such reviews are still required; removes the requirement that applicants file Environmental Assessments solely due to the location of a proposed facility in a floodplain, as long as certain conditions are met; and establishes timeframes for the Commission to act on Environmental Assessments.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the

agency's submission to us indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Mary Claire York  
Legal Advisor, Office of the Bureau Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
FEDERAL COMMUNICATIONS COMMISSION  
ENTITLED  
“ACCELERATING WIRELESS BROADBAND DEPLOYMENT BY  
REMOVING BARRIERS TO INFRASTRUCTURE INVESTMENT”  
(FCC 18-30)

(i) Cost-benefit analysis

In its submission to us, the Federal Communications Commission (the Commission) stated that it was not required to prepare a cost-benefit analysis.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Commission included in its submission to us a copy of the Final Regulatory Flexibility Analysis for this final rule. The analysis included (1) a statement of the need for and objectives of the rule; (2) a summary of significant issues raised by public comments in response to the Initial Regulatory Flexibility Analysis; (3) a response to any comments by the Chief Counsel for Advocacy of the Small Business Administration; (4) a description and estimate of the number of small entities to which the rule will apply; (5) a description of projected reporting, recordkeeping, and other compliance requirements for small entities; and (6) a description of steps taken to minimize the significant economic impact on small entities and significant alternatives considered.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The Commission published a notice of proposed rulemaking. 82 Fed. Reg. 21761 (May 10, 2017). The Commission responded to commenters in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Commission determined that this final rule contains a non-substantive and non-material change to the information collection requirements that were previously reviewed and approved by the Office of Management and Budget (OMB) pursuant to the Act. The Commission stated that this non-substantive and non-material change will be submitted to OMB accordingly.

Statutory authorization for the rule

The Commission promulgated this final rule under the authority of sections 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455 of title 47, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the review requirements of the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the Order.